

§ 882.411

24 CFR Ch. VIII (4–1–97 Edition)

(Approved by the Office of Management and Budget under OMB approval number 2577–0196)

[47 FR 34379, Aug. 9, 1982, as amended at 59 FR 47773, Sept. 16, 1994]

§ 882.411 Payments for vacancies.

(a) *Vacancies from execution of Contract to initial occupancy.* If a Contract unit which has been rehabilitated in accordance with this Program is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) has complied with §§ 882.506(d) and 882.508(c); (2) has taken and continues to take all feasible actions to fill the vacancy; and (3) has not rejected any eligible applicant except for good cause acceptable to the PHA.

(b) *Vacancies after initial occupancy.* (1) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner may receive the housing assistance payments due under the Contract for so much of the month in which the Family vacates the unit as the unit remains vacant. Should the unit continue to remain vacant, the Owner may receive from the PHA a housing assistance payment in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding an additional month. However, if the Owner collects any of the Family's share of the rent for this period, the payment must be reduced to an amount which, when added to the Family's payment, does not exceed 80 percent of the Contract Rent. Any such excess must be reimbursed by the Owner to the PHA. The Owner will not be entitled to any payment under this paragraph (b)(1) of this section unless the Owner:

- (i) Immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, and
- (ii) has taken and continues to take all feasible actions specified in paragraphs (a) (2) and (3) of this section.

(2) If the Owner evicts an Eligible Family, the Owner will not be entitled to any payment under paragraph (b)(1) of this section unless the PHA determines that the Owner complied with all requirements of the Contract.

(c) *Prohibition of double compensation for vacancies.* The Owner will not be entitled to housing assistance payments with respect to vacant units under this section if the Owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act of 1974 or payments for unpaid rent under § 882.112 (Security and Utility Deposits)).

§ 882.412 Subcontracting of owner services.

(a) *General.* Any Owner may contract with any private or public entity to perform for a fee the services required by the Agreement, Contract or Lease, provided that such contract may not shift any of the Owner's responsibilities or obligations.

(b) *PHA management.* If the Owner and a PHA wish to enter into a management contract, they may do so provided that:

(1) The Housing Assistance Payments Contract with respect to the housing involved is administered by another PHA, or

(2) Should another PHA not be available and willing to administer the Housing Assistance Payments Contract and no other management alternative exists, the HUD Field Office may authorize PHA management of units administered by the PHA in accordance with specified criteria.

(3) Notwithstanding the provisions of § 882.408 (b) and (c), a PHA may not approve, without prior HUD approval, rents which exceed the appropriate Moderate Rehabilitation Fair Market Rent for a unit for which it provides the management functions under this section.

§ 882.413 Responsibility of the Family.

(a) A family receiving housing assistance under this Program must fulfill all of its obligations under the Lease and Statement of Family Responsibility.

(b) No family member may engage in drug-related criminal activity or violent criminal activity. Failure of the Family to meet its responsibilities under the Lease, the Statement of Family Responsibility, or this section shall constitute grounds for termination of assistance by the PHA. Should the PHA determine to terminate assistance to the Family, the provisions of § 882.514(f) must be followed.

(c) For the purposes of this section—(1) *Drug-related criminal activity* means one of the following:

(i) The felonious manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(ii) The felonious use, or possession (other than with intent to manufacture, sell, or distribute), of a controlled substance, except that such use or possession must have occurred within one year before the date that the PHA provides notice to an applicant or participant Family of the PHA's determination to deny admission or terminate assistance. Drug-related criminal activity does not include this use or possession, if the Family member can demonstrate that he or she:

(A) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and

(B) Has recovered from such addiction and does not currently use or possess controlled substances.

(2) *Violent criminal activity* includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

(3) *Felonious* means that the criminal activity is classed as a felony under Federal, State, or local law.

[55 FR 28546, July 11, 1990]

Subpart E—Special Procedures for Moderate Rehabilitation—Program Development and Operation

SOURCE: 47 FR 34383, Aug. 9, 1982, unless otherwise noted.

§ 882.501 Distribution of funds and processing of PHA applications.

(a) *Distribution of funds.* Contract and budget authority will be assigned to each HUD Field Office pursuant to 24 CFR part 791. The HUD Field Office will invite applications for the Moderate Rehabilitation Program from PHAs from areas where the Field Office has determined that the Moderate Rehabilitation Program would be appropriate.

(b) *Processing of PHA applications.* PHAs will submit an application for the Moderate Rehabilitation Program to the HUD Field Office. The application must contain all the information and documentation required by HUD. Should the available contract authority not be sufficient to fund all approvable applications, HUD will rank the applications based on its assessment of which applications have the best combination of the following:

(1) The demonstrated capacity of the PHA or its contractor(s) to provide the rehabilitation technical assistance to Owners required under the Program;

(2) The availability of financing resources, both assisted and unassisted, as demonstrated through statements from financing agencies (for example, local Community Development or State agency rehabilitation loan programs);

(3) The PHA's experience with the Section 8 Existing Housing Program or the PHA's overall administrative capability;

(4) The potential of achieving, as expeditiously as possible, the rehabilitation and leasing of housing units under this Subpart; and

(5) The overall feasibility of the proposed program.

§ 882.502 Schedule of rehabilitation and leasing.

All units in a Section 8 Moderate Rehabilitation project must be under an Agreement, rehabilitated, and under Contract within 24 months of execution of the ACC for that project, unless this schedule is extended by HUD. HUD may modify the unit mix or reduce the number of units or the amount of the annual contributions commitment if, in the determination of HUD, the PHA fails to demonstrate a good faith effort